

# Property Writes

## NEWS LETTER – MAY 2003

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### MESSAGE FROM THE DIRECTOR - Denny Lytle

The recent legislative session did not make significant changes to the property tax systems. Those few changes the legislature did pass will be relatively easy to implement. Contained in this newsletter is a summary of some of the bills that we think have the most impact on the assessment process.

The UAC spring conference in Price was very interesting and productive. We in the division appreciate the opportunity to meet

with the various county officials and discuss the issues of interest to us all. While the counties and the state have different functions and responsibilities in the property tax process, we are all working toward the same objectives. The more closely we work together and coordinate the better it is for the taxpayers of the state.

We are in the last days of the preliminary sales ratio studies for this year. I believe that the combined efforts of the counties and the Property Tax Division have made this whole process more timely and effective. The study now helps to provide an important tool for the assessors. The statewide statistics prove that this is the right direction. The county assessment levels and dispersion have significantly and steadily improved over the last few years.

The division is also in the final days of the 2003 assessment for centrally assessed companies. This year has had its challenges. With the bankruptcies, accounting scandals, and general economic problems facing the airlines and tele-communications industries, getting accurate information on which to base the appraisals has been difficult. But amid these challenges the Property Tax Division is continuing to appraise properties for what we believe is market value as interpreted through Utah Code and administrative law.

If we can be of assistance with implementation of any of the new legislation, or other issues, feel free to call.

# **Summary of 2003 Property Tax Legislation**

## **Property Tax Division**

**Prepared for UAC, April 16 – 18, 2003**

### **HB 22 Property Tax Relief (Effective 1/1/03)**

Clarifies the year in which household income is to be determined both for the homeowner and renter credits. Defines “rental assistance payment” and specifies that a claimant may claim a renter’s credit only for rent that does not constitute a rental assistance payment. Allows the Tax Commission to make rules defining the following terms: “governmental entity”, “charitable organization” and “religious organization”. Specifies that an individual, who is claimed as a personal exemption on another individual’s income tax return during any portion of the calendar year, may not claim a homeowner’s credit or a renter’s credit for that particular calendar year.

### **HB 87 Property Tax Assessment of Low-Income Housing Tax Credits & Covenants (Effective 1/1/03 & 1/1/04)**

Effective Jan 1, 2003, definitions of “low-income housing covenant” and “residential housing” are included in Section 59-2-301.3 which directs the county assessor to include as part of the assessment any effects a low-income housing covenant may have on the fair market value of real property. **Effective Jan 1, 2004**, amends the definition of intangible property to include a “low-income housing tax credit” and defines the credit.

### **HB 116 Calculation of Certified Tax Rate (Effective 1/1/04)**

Modifies the calculation of the certified tax rate. The certified tax rate is to be calculated by using ad valorem property tax revenues budgeted (rather than collected) in the calculation. The Tax Commission is to make rules determining the calculation of ad valorem property tax revenues budgeted by a taxing entity.

### **HB 142 Manufactured Home & Mobile Home Amendments (Effective 1/1/04)**

Repeals Part 6 “Mobile Homes” of the Property Tax Act. Places the section addressing the tax clearance required to move a manufactured home or mobile home under the Motor Vehicle Act (Section 41-1a-1320) and places definitions and the procedures and requirements for classifying manufactured homes and mobile homes as real property under the Mortgage Financing Regulations Act (Sections 70D-1-19 and 20). Provides that for financing purposes only, a mobile or manufactured home owner that leases the underlying land may in certain circumstances be able to have that mobile or manufactured home considered as an improvement to real property. An owner seeking to have the manufactured home or mobile home considered to be an improvement to real property and considered real property is to provide a copy of the recorded affidavit of affixture to the Motor Vehicle Division and the assessor of the county in which it is to be located.

### **HB 200 Property Tax & Uniform Fees - Interest Rate on Deferred or Delinquent Taxes (Effective 1/1/04)**

Addresses interest rates imposed on certain deferred or delinquent property taxes or uniform fees. Interest on delinquent real property taxes, uniform fees and taxes on personal property is the sum of 6% and the targeted federal funds rate existing on January 1 immediately preceding the day on which the taxes are delinquent. Interest on indigent deferred property taxes and Section 59-2-1347 deferrals is equal to the lesser of 6% or the targeted federal funds rate existing on January 1 immediately preceding the day on which the taxes are deferred.

**HB 272 Redevelopment Agencies –Tax Increment Amendments (Effective 5/5/03)**

Repeals the provision authorizing the use of specified tax increment funds for the construction of an Interstate 15 underpass. Provides for the use of specified tax increment funds for acquiring, constructing, extending, maintaining, or repairing lines, facilities and equipment for providing public telecommunications service and clarifies a limitation on the agency's authority with respect to cable television service and public telecommunication service. Extends the date from 2002 to 2006 before which construction on certain projects must begin in order to receive tax increment funds. Extends the authority to use specified tax increment to agencies established by other than first or second-class cities and cities located in other than a first class county.

**SB 6 Retailer Requirements in Printing Financial Transaction Card Receipt (Effective 1/1/04)**

Modifies the Commerce and Trade Code by enacting a provision that prohibits a person from electronically printing more than the last five digits of a financial transaction card account number or the expiration date on a financial transaction card receipt.

**SB 21 Amendments to the Interlocal Cooperation Act (Sections 11-13-302, 310 and 311 have retrospective operation to January 1, 2003)**

Modifies the Interlocal Cooperation Act adding definitions, modifying provisions related to project entity and generation output requirements and modifying provisions related to powers and duties of interlocal entities. The amendments allow project entities and counties to set the fee base by mutual agreement; otherwise, the Utah State Tax Commission shall determine the value or fee base. Also, the bill defines and modifies provisions related to project entity and generation output requirements.

**SB 72 Amendments to Special & Local Districts for Expanded Fire Protection Services (Effective 5/5/03)**

Authorizes the creation of a county service area and a local district for fire protection, paramedic and emergency services by resolution of the participating county/municipality legislative bodies without voter approval under certain circumstances. Modifies board of trustee provisions for a district created to provide these services. Requires affected counties and municipalities to reduce their certified tax rate to offset taxes imposed by the district for those services. Charges a tax imposed by a fire district to the county or municipality included within the district for purposes of the county or municipality's tax limit. Provides for automatic annexation to certain districts providing fire protection, paramedic, and emergency services when an area is annexed to a municipality within the district and for automatic withdrawal from those districts when an area within the district is annexed to a municipality

that is not within the district. Upon resolution of the municipal legislative body and a vote of the municipality, a municipal area may withdraw from certain districts providing fire protection, paramedic, and emergency services. Finally, provides for coordination with HB 95 “Annexation of Unincorporated County Islands Into Cities” and SB 18 “Lieutenant Governor Certification of Special District and Local District Annexations, Withdrawals, and Dissolutions”.

**SB 84 Real Property Voluntary Environmental Restrictive Covenants (Effective 5/5/03)**

Creates a new chapter in the Environmental Quality Code. Allows an owner of real property, with the approval of the State Department of Environmental Quality Executive Director to restrict the use of the real property by imposing appropriate environmental institutional controls that limit or otherwise affect the use of real property affected by a cleanup or risk assessment. Includes procedures for establishment and enforcement of the institutional controls, removal of the controls and appeal of the executive director’s decisions regarding the controls.

**SB 148 Farmland Assessment Act (Effective 1/1/04)**

Modifies the Farmland Assessment Act. Defines “identical legal ownership”, “other eligible acreage” and “platted with surface improvements in place”. Changes the time period from 180 to 120 days for an owner of land to notify the county assessor if land does not meet qualifications for agricultural use assessment. Clarifies provisions relating to the imposition and collection of the rollback tax, the conservation easement rollback tax, and one-time in lieu fee payments. Adds provisions relating to the imposition of interest for purposes of the rollback tax and the conservation easement rollback tax. Addresses the application requirements for agricultural use assessment and the creation and termination of a lien on certain property. Specifies that land, which becomes exempt, is not subject to the rollback tax only if it remains FAA eligible. Also, provides that if a governmental entity acquires land that will be subject to a one-time in lieu fee payment, the title shall not pass to the governmental entity until the in lieu fee payment has been paid.

**SB 226 State Tax Commission Amendments (Effective May 5, 2003)**

Specifies that a quorum of the State Tax Commission must participate in any order that constitutes a final agency action on formal and informal adjudicative proceedings over which the Commission has jurisdiction or an initial hearing conducted pursuant to Section 59-1-502.5; when a Commission vote results in a tie, the position of the taxpayer is considered to have prevailed.

**SB 253 Privilege Tax –Public Land (Effective 1/1/04)**

Extends the property tax exemption from the privilege tax to public land occupied under the terms of an agricultural (rather than just grazing) lease or permit issued by the federal or state government.

**Other 2003 property tax-related bills, which may be of interest, are as follows:**

<b>HB 25</b>	<b>Extension of Timing for Creating a Local District</b>	
<b>HB 80</b>	<b>Special Service District Amendments</b>	
<b>HB 95</b>	<b>Annexation of Unincorporated County Islands Into Cities</b>	
<b>HB 98</b>	<b>Municipal Disconnection Amendments</b>	
<b>HB 158</b>	<b>Incorporation of Cities</b>	
<b>HB 169</b>	<b>Process for Creation of New School Districts</b>	
<b>HB 278</b>	<b>Municipal Annexations Across County Lines</b>	
<b>HB 296</b>	<b>Municipal Annexation Amendments</b>	
<b>SB 18</b>	<b>Lt Governor Certification of Special District &amp; Local District</b>	<b>Annexations, Withdrawals, and Dissolutions</b>
<b>SB 97</b>	<b>County Annexation Amendments</b>	
<b>SB 164</b>	<b>County Amendments</b>	
<b>SB 175</b>	<b>Revenue Procedures and Control Act Amendments</b>	
<b>SB 180</b>	<b>Emergency Medical Services</b>	
<b>SB 184</b>	<b>Municipal Improvement District Amendments</b>	

**Summary of 2002 Property Tax Legislation Effective Jan 1, 2003**

**HB 84 Property Tax Assessments-Effect of Conservation Easement** (Effective January 1, 2003)

Requires county assessors to include as part of a property tax assessment any effects a conservation easement may have on the fair market value of the property.

**HB 119 Assessment of Property Subject to a Minimum Parcel Size** (Effective January 1, 2003)

With respect to a property parcel subject to a minimum parcel size of one acre or more as required by a county, city or town zoning ordinance, the county assessor is required to include as part of a property tax assessment the effect the minimum parcel size may have on the fair market value of the property parcel and that the property parcel may not be subdivided into property parcels smaller than the minimum parcel size.

**HB 155 Property Taxes - Farmland Assessment Act** (Effective January 1, 2003)

Clarifies when land qualifies or is withdrawn from FAA; decreases the penalty for failure to notify the county within 180 days of the withdrawal of the land from FAA from 100% of the rollback tax to the greater of \$10 or 2% of the rollback tax due for the last year of the rollback period; clarifies when a rollback tax is imposed on land withdrawn from a conservation easement; addresses the process for applying for assessment under FAA; changes the filing date for FAA assessment from March 1 to May 1; modifies provisions related to one-time payments in lieu of the rollback tax; defines identical legal ownership for purposes of qualifying for FAA assessment; provides that land less than 5 contiguous acres in area may qualify for assessment under FAA if it is used in conjunction with other agricultural land in the same county; provides

that if land in agricultural use in one ownership is located in more than one county, and the land is not contiguous across county lines, FAA status shall be determined on the basis of the land area and production in each county; exempts property from privilege tax if the use or possession of the property qualifies as land in agricultural use.

**HB 201 Property Tax - Judgment Levy** (Effective January 1, 2003)

Increases the amount of a taxing entity's share of a judgment or order that is required in order for the taxing entity to impose a judgment levy. Currently, a taxing entity cannot impose a judgment levy if the amount of the judgment is less than the smaller of **\$1,000** or **1%** of the total ad valorem property taxes collected by the taxing entity in the previous year; these amounts are increased to **\$5,000** or **2.5%**. Refunds for which a judgment levy is imposed that are less than \$5,000 are required to be paid within 60 days after the date the refunds are ordered to be paid; refunds more than \$5,000 are required to be paid no later than December 31 of the year in which the judgment levy is imposed.

**HB 305 Property Tax Amendments** (Effective January 1, 2003)

Addresses when applications, statements, annual statements or other filings are required for an exemption from taxation or a reduction in value. For a residential exemption, a county legislative body may, by ordinance and under certain conditions, require a statement signed by all owners of the residential property and certifying that the property is residential property. If the county imposes the ordinance, the county may only require the statement if the property did not qualify for the exemption for the prior year, the ownership in the property changed, or the BOE has reason to believe that the property no longer qualifies for the exemption. BOE may not require an application for any property tax exemption except for property owned by a nonprofit entity which is used exclusively for religious, charitable, or educational purposes and places of burial not held or used for private or corporate benefits. Requires an annual statement that property approved for a religious, charitable, educational, or place of burial exemption continues to qualify for the exemption. The county BOE may waive the application, personal appearance and annual statement requirements for religious, charitable, educational and place of burial entities.

**SB 80 Adjustments of County Boundaries** (Effective Jan 1, 2003)

Allows a procedure for adjacent counties to make minor adjustments (up to 1,000 feet) to shared boundaries by joint resolution of affected county legislative bodies. It repeals the description of county boundaries located in Sections 17-50-201 through 233 and makes the Lieutenant Governor's Office responsible for maintaining the official county boundary records.

**SB 169 Property Tax Modifications** (Effective Jan 1, 2003)

Amends the interest rate and the period for which interest is calculated when a court, the county BOE, or USTC orders a reduction in the amount of property tax paid by a taxpayer. When a taxpayer obtains a final and unappealable judgment or order and a refund is ordered, the refund is to include the amount of tax reduction and any penalty/interest actually paid at the delinquency interest rate on the amount of the tax reduction. Interest is calculated for the period beginning on the later of the day the tax was actually paid or January 1 of the year following the calendar year for which the tax was due and ending on the day the tax is refunded. Interest paid on refunds is calculated at the interest rate earned by the state PTIF. No interest is due the taxpayer on any overpayment of tax. Finally, as presented in HB 201, the act increases the amount of a taxing entity's share of a final and unappealable judgment or order that is required to impose a judgment levy and details when an ordered refund is required to be paid.

